

By: Hall

S.B. No. 1204

A BILL TO BE ENTITLED

AN ACT

1
2 relating to an unborn child's rights and the civil and criminal
3 liability and justification for prohibited conduct regarding an
4 unborn child.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 71.003(c), Civil Practice and Remedies
7 Code, is amended to read as follows:

8 (c) This subchapter does not apply to a claim for the death
9 of an individual who is an unborn child that is brought against[+]

10 [~~(1)~~] the mother of the unborn child[+]

11 [~~(2) a physician or other licensed health care~~
12 ~~provider, if the death is the intended result of a lawful medical~~
13 ~~procedure performed by the physician or health care provider with~~
14 ~~the requisite consent,~~

15 [~~(3) a person who dispenses or administers a drug in~~
16 ~~accordance with law, if the death is the result of the dispensation~~
17 ~~or administration of the drug, or~~

18 [~~(4) a physician or other health care provider~~
19 ~~licensed in this state, if the death directly or indirectly is~~
20 ~~caused by, associated with, arises out of, or relates to a lawful~~
21 ~~medical or health care practice or procedure of the physician or the~~
22 ~~health care provider].~~

23 SECTION 2. Section 1.07(a)(26), Penal Code, is amended to
24 read as follows:

1 (26) "Individual" means a human being who is alive,
2 including an unborn child at every stage of development [~~gestation~~]
3 from fertilization until birth.

4 SECTION 3. Chapter 1, Penal Code, is amended by adding
5 Section 1.11 to read as follows:

6 Sec. 1.11. APPLICABILITY OF CODE PROVISIONS TO UNBORN
7 VICTIMS. The provisions of this code apply equally to a violation
8 committed against any victim, regardless of whether the victim is
9 an unborn child or an individual who was born alive.

10 SECTION 4. Subchapter B, Chapter 9, Penal Code, is amended
11 by adding Section 9.23 to read as follows:

12 Sec. 9.23. CERTAIN MEDICAL PROCEDURES. Conduct is
13 justified if the conduct charged is a lawful medical procedure
14 that:

15 (1) was performed by a licensed physician;

16 (2) was performed on a pregnant female to avert the
17 death of the pregnant female;

18 (3) resulted in the accidental or unintentional death
19 of the unborn child the pregnant female is carrying; and

20 (4) was performed when reasonable alternatives to save
21 the life of the unborn child were:

22 (A) unavailable; or

23 (B) attempted unsuccessfully before the
24 performance of the medical procedure.

25 SECTION 5. Section 19.06, Penal Code, is amended to read as
26 follows:

27 Sec. 19.06. APPLICABILITY TO CERTAIN CONDUCT. This chapter

1 does not apply to the death of an unborn child if the conduct
2 charged is[+]

3 ~~[(1)]~~ conduct committed by the mother of the unborn
4 child[+]

5 ~~[(2) a lawful medical procedure performed by a
6 physician or other licensed health care provider with the requisite
7 consent, if the death of the unborn child was the intended result of
8 the procedure;~~

9 ~~[(3) a lawful medical procedure performed by a
10 physician or other licensed health care provider with the requisite
11 consent as part of an assisted reproduction as defined by Section
12 160.102, Family Code; or~~

13 ~~[(4) the dispensation of a drug in accordance with law
14 or administration of a drug prescribed in accordance with law].~~

15 SECTION 6. Section 22.12, Penal Code, is amended to read as
16 follows:

17 Sec. 22.12. APPLICABILITY TO CERTAIN CONDUCT. This chapter
18 does not apply to conduct charged as having been committed against
19 an individual who is an unborn child if the conduct is[+]

20 ~~[(1)]~~ committed by the mother of the unborn child[+]

21 ~~[(2) a lawful medical procedure performed by a
22 physician or other health care provider with the requisite consent;~~

23 ~~[(3) a lawful medical procedure performed by a
24 physician or other licensed health care provider with the requisite
25 consent as part of an assisted reproduction as defined by Section
26 160.102, Family Code; or~~

27 ~~[(4) the dispensation of a drug in accordance with law~~

1 ~~or administration of a drug prescribed in accordance with law].~~

2 SECTION 7. (a) Except as otherwise provided by Subsection
3 (b) of this section, the changes in law made by this Act apply only
4 to an offense committed on or after the effective date of this Act.
5 An offense committed before the effective date of this Act is
6 governed by the law in effect on the date the offense was committed,
7 and the former law is continued in effect for that purpose. For
8 purposes of this section, an offense was committed before the
9 effective date of this Act if any element of the offense occurred
10 before that date.

11 (b) Section 71.003(c), Civil Practice and Remedies Code, as
12 amended by this Act, applies only to a cause of action that accrues
13 on or after the effective date of this Act. A cause of action that
14 accrues before the effective date of this Act is governed by the law
15 as it existed immediately before the effective date of this Act, and
16 that law is continued in effect for that purpose.

17 SECTION 8. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2025.